Court No. 5

Criminal Revision No. 685/2001.
(Old No. 1235/1985)

Ramesh Chandra Baluni …….Revisionist.

Versus

State …….….Respondent.

Hon'ble Irshad Hussain, J.

This is a criminal revision against the judgment and order dated 27-5-1985 passed by the Sessions Judge, Pauri Garhwal dismissing the appeal of the revisionist U/S 25 of the Indian Arms Act in Criminal Appeal No. 28/1985 and confirming the conviction and sentence passed by the C.J.M., Pauri Garhwal to undergo 6 month's R.I. and to pay a fine of Rs. 100/-.

None appeared for the revisionist. Heard Sri H.C. Pandey learned A.G.A. and perused the record.

There is concurrent finding of learned C.J.M as well as learned Sessions Judge who heard the appeal against the order of conviction and sentence in regard to the reliability of the prosecution witnesses namely constable Sulabh Singh (P.W.1), constable Shiv Singh (P.W.2) and Sub-Inspector Mahendra Singh (P.W.3) who gave out that a country-made pistol and two live cartridges were recovered from the possession of the revisionist-accused on 7-7-1982. These witnesses were cross-examined at length but nothing could be brought on record which may assail their evidence in regard to the recovery and arrest in the manner as alleged. The judgment of the appellate court therefore does not suffer from any infirmity and the revisionist was rightly held to be involved in the commission of the crime punishable U/S 25 of the Indian Arms Act. The conviction of the revisionist therefore is to be up-held.

So far as the sufficiently of the punishment is concerned it need to be appreciated that the occurrence took place way back in the year 1982 and the revisionist who was young man of about 30 years remained in jail for quite some times. After admission of his appeal against the judgment of learned C.J.M. the revisionist has been on bail in this case. He however

remained in custody for a period of 2 months and 20 days and considering the totality and circumstances of the case no useful purpose will be served to put the revisionist back in to detention and the ends of justice will be satisfied if the sentence is reduced to the period already undergone.

In view of above this revision partly succeed and is to be disposed of accordingly. The conviction of the revisionist U/S 25 of the Indian Arms Act is affirmed and the period of sentence awarded to the revisionist by the Courts below is modified and reduced to the period of detention already undergone. The revisionist therefore need not surrender. His bail bonds are cancelled and sureties discharged.

(Irshad Hussain, J.)

Dated 25-8-03

ISB